



April 10, 2009

ENGROSSED SENATE BILL No. 461

DIGEST OF SB 461 (Updated April 8, 2009 12:44 pm - DI 69)

Citations Affected: IC 5-24; IC 9-14; IC 9-19; IC 13-11; IC 13-14; IC 13-15; IC 13-17; IC 13-18; IC 13-20; IC 13-23; IC 14-33; IC 32-21; IC 36-8; noncode.

Synopsis: Environmental issues. Repeals the electronic digital signature act. Allows the use in motor vehicle air conditioning equipment of a toxic or flammable refrigerant if the refrigerant has been approved by the United States Environmental Protection Agency. Allows, in streamlined rulemaking processes, the adoption of a proposed rule with amendments at the public hearing, and requires that the amendments meet logical outgrowth requirements. Replaces the undefined term "sanitary landfill" with "solid waste landfill". Modifies the deductible for claims against the ELTF by certain UST owners. Establishes deadlines for Indiana department of environmental management (IDEM) action on various permit applications with respect to certain solid waste processing facilities. Requires IDEM to enter into contracts with local air pollution agencies to carry out an air pollution program for IDEM. Extends the powers granted to Marion County to establish a local air pollution permit program to counties, cities, and towns outside Marion County. Authorizes a local permit program to comply with more restrictive local ordinances to further the expressed purposes of air pollution control laws. Allows a city or town
(Continued next page)

Effective: Upon passage; July 1, 2009.

Gard, Dillon, Tallian

(HOUSE SPONSORS — DVORAK, WOLKINS)

January 14, 2009, read first time and referred to Committee on Energy and Environmental Affairs.

February 3, 2009, amended, reported favorably — Do Pass.

February 5, 2009, read second time, amended, ordered engrossed.

February 6, 2009, engrossed.

February 10, 2009, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 25, 2009, read first time and referred to Committee on Environmental Affairs.

April 9, 2009, amended, reported — Do Pass.

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ES 461—LS 6660/DI 52



to regulate the introduction of any substance or odor into the air or any generation of sound within four miles outside its corporate boundaries. Allows IDEM to establish a drinking water apprenticeship program. Allows suspension or revocation of a drinking water or wastewater operator certification if another state has decertified or taken similar action against the operator. For purposes of wastewater management statutes, replaces the term "wastewater" with "septage". Provides that, beginning September 1, 2009, if a campground is billed for sewage service at a flat rate, the campground may instead elect to be billed for the sewage service by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the district's sewers. Requires disclosure upon the sale of residential property of known methamphetamine contamination if the property has not been certified as decontaminated. Provides that an owner or agent is required to disclose knowledge of a psychologically or environmentally affected property in a real estate transaction if the property has been contaminated by methamphetamine and has not been certified as decontaminated. Requires the environmental quality service council to study certain issues.

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April 10, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 461

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 9-14-3-0.3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.3. As used in this
3 chapter, "digital signature" ~~has the meaning set forth in IC 5-24-2-1.~~
4 **means an electronic signature that transforms a message using an**
5 **asymmetric cryptosystem so that a person having the initial**
6 **message and the signer's public key can accurately determine**
7 **whether:**
8 **(1) the transformation was created using the private key that**
9 **corresponds to the signer's public key; and**
10 **(2) the initial message has been altered since the**
11 **transformation was made.**
12 SECTION 2. IC 9-19-2-1 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Air conditioning
14 equipment:
15 (1) shall be manufactured, installed, and maintained with due

ES 461—LS 6660/DI 52+



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regard for the safety of the occupants of the vehicle and the public; and

(2) except as provided in subsection (b), may not contain a refrigerant that is toxic to individuals or that is flammable.

(b) Air conditioning equipment may contain a refrigerant that is toxic to individuals or that is flammable if the refrigerant is included in the list published under 42 U.S.C. 7671k(c) by the United States Environmental Protection Agency as a safe alternative motor vehicle air conditioning substitute for chlorfluorocarbon 12.

SECTION 3. IC 13-11-2-167 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 167. "Portable sanitary unit", for purposes of ~~IC 13-18-12~~, **this chapter**, includes the following:

- (1) Portable toilets.
- (2) Mobile restrooms.
- (3) Similar devices or equipment of a portable nature containing sanitary facilities for temporary or short term use.

SECTION 4. IC 13-11-2-199.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 199.2. "Septage", for purposes of this chapter and IC 13-18-12, means the following:**

- (1) The following from sewage disposal systems:**
 - (A) Human excreta.**
 - (B) Water.**
 - (C) Scum.**
 - (D) Sludge.**
 - (E) Sewage.**
 - (F) Incidental or accidental seepage.**
- (2) Retained contents of septage holding tanks and portable sanitary units.**
- (3) Grease, fats, and retained wastes from grease traps or interceptors.**

(4) Wastes carried in liquid from ordinary living processes.

SECTION 5. IC 13-11-2-199.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 199.3. "Septage management", for purposes of IC 13-18-12, includes the following:**

- (1) The cleaning of sewage disposal systems.**
- (2) The transportation, storage, treatment, or disposal of septage.**

SECTION 6. IC 13-11-2-201 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 201. "Sewage disposal system", for purposes of **this chapter**, IC 13-18-12, **and IC 13-20-17.5**, means septic tanks, ~~wastewater~~ **septage** holding tanks, seepage pits, cesspools, privies, composting toilets, interceptors or grease traps, portable sanitary units, and other equipment, facilities, or devices used to:

- (1) store;
- (2) treat;
- (3) make inoffensive; or
- (4) dispose of;

human excrement or liquid carrying wastes of a domestic nature.

SECTION 7. IC 13-11-2-208 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 208. "Solid waste landfill", for purposes of IC 13-20-9, ~~IC 13-20-21-6~~, **IC 13-20-21**, and IC 13-22-9, means a solid waste disposal facility at which solid waste is deposited on or beneath the surface of the ground as an intended place of final location.

SECTION 8. IC 13-11-2-258 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 258. "Wastewater treatment plant", for purposes of IC 13-18-11, **IC 13-20-17.5**, and environmental management laws, means the system of treatment works, regulatory devices, equipment, and other facilities and appurtenances installed to treat sewage, industrial wastes, and other wastes delivered by a system of sewers and other related facilities, whether owned or operated by the state, a municipality, or a person, firm, or corporation. The term does not include septic tank disposal systems.

SECTION 9. IC 13-14-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. Except as provided in sections 4.5, 7, ~~and 8~~, **and 14** of this chapter, a board may not adopt a rule under this chapter until the board has conducted at least two (2) public comment periods, each of which must be at least thirty (30) days in length.

SECTION 10. IC 13-14-9-8, AS AMENDED BY P.L.204-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Unless a board determines that a proposed rule should be subject to additional comments or makes a determination described in subsection (f), sections 2 through 7 and sections 9 through 14 of this chapter do not apply to a rulemaking action if the commissioner determines that:

- (1) the proposed rule constitutes:
 - (A) an adoption or incorporation by reference of a federal law,

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- 1 regulation, or rule that:
- 2 (i) is or will be applicable to Indiana; and
- 3 (ii) contains no amendments that have a substantive effect
- 4 on the scope or intended application of the federal law or
- 5 rule;
- 6 (B) a technical amendment with no substantive effect on an
- 7 existing Indiana rule; or
- 8 (C) a substantive amendment to an existing Indiana rule, the
- 9 primary and intended purpose of which is to clarify the
- 10 existing rule; and
- 11 (2) the proposed rule is of such nature and scope that there is no
- 12 reasonably anticipated benefit to the environment or the persons
- 13 referred to in section 7(a)(2) of this chapter from the following:
- 14 (A) Exposing the proposed rule to diverse public comment
- 15 under section 3 or 4 of this chapter.
- 16 (B) Affording interested or affected parties the opportunity to
- 17 be heard under section 3 or 4 of this chapter.
- 18 (C) Affording interested or affected parties the opportunity to
- 19 develop evidence in the record collected under sections 3 and
- 20 4 of this chapter.
- 21 (b) If the commissioner makes a determination under subsection (a),
- 22 the commissioner shall prepare written findings under this section. The
- 23 full text of the commissioner's written findings shall be included in:
- 24 (1) the notice of adoption of the proposed rule; and
- 25 (2) the written materials to be considered by the board at the
- 26 public hearing held under this section.
- 27 (c) The notice of adoption of a proposed rule under this section
- 28 must:
- 29 (1) be published in the Indiana Register; and
- 30 (2) include the following:
- 31 (A) Draft rule language that includes the language described
- 32 in subsection (a)(1).
- 33 (B) A written comment period of at least thirty (30) days.
- 34 (C) A notice of public hearing before the appropriate board.
- 35 (d) The department shall include the following in the written
- 36 materials to be considered by the board at the public hearing referred
- 37 to in subsection (c):
- 38 (1) The full text of the proposed rule as most recently prepared by
- 39 the department.
- 40 (2) Written responses of the department to written comments
- 41 received during the comment period referred to in subsection (c).
- 42 (3) The commissioner's findings under subsection (b).

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(e) At the public hearing referred to in subsection (c), the board may:

(1) adopt the proposed rule;

(2) adopt the proposed rule with amendments;

~~(2)~~ (3) reject the proposed rule;

~~(3)~~ (4) determine that additional public comment is necessary; or

~~(4)~~ (5) determine to reconsider the proposed rule at a subsequent board meeting.

(f) If the board determines under subsection (e) that additional public comment is necessary, the department shall publish a second notice in accordance with section 4 of this chapter and complete the rulemaking in accordance with this chapter.

(g) If the board adopts the proposed rule with amendments under subsection (e), the amendments must meet the logical outgrowth requirements of section 10(b) of this chapter except that the board shall consider the comments provided to the board under the public hearing referred to in subsection (c)(2)(C).

SECTION 11. IC 13-14-9-14, AS ADDED BY P.L.100-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) Sections 1 through 13 of this chapter do not apply to a rule adopted under this section.

(b) The water pollution control board may use the procedures in this section to adopt a rule to establish new water quality standards for a community served by a combined sewer that has:

(1) an approved long term control plan; and

(2) an approved use attainability analysis that supports the use of a CSO wet weather limited use subcategory established under IC 13-18-3-2.5.

(c) After the department approves the long term control plan and use attainability analysis, the department shall publish in the Indiana Register a notice of adoption of a proposed rule to establish a CSO wet weather limited use subcategory for the area defined by the approved use attainability analysis.

(d) The notice under subsection (c) must include the following:

(1) Suggested rule language that amends the designated use to allow for a CSO wet weather limited use subcategory in accordance with IC 13-18-3-2.5.

(2) A written comment period of at least thirty (30) days.

(3) A notice of public hearing before the water pollution control board.

(e) The department shall include the following in the written materials to be considered by the water pollution control board at the

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public hearing referred to in subsection (d)(3):

(1) The full text of the proposed rule as most recently prepared by the department.

(2) Written responses of the department to written comments received during the comment period referred to in subsection (d)(2).

(3) The letter prepared by the department approving the long term control plan and use attainability analysis.

(f) At the public hearing referred to in subsection (d)(3), the board may:

(1) adopt the proposed rule to establish a new water quality standard amending the designated use to allow for a CSO wet weather limited use subcategory;

(2) adopt the proposed rule with amendments;

~~(2)~~ (3) reject the proposed rule; or

~~(3)~~ (4) determine to reconsider the proposed rule at a subsequent board meeting.

(g) If the board adopts the proposed rule with amendments under subsection (f), the amendments must meet the logical outgrowth requirements of section 10(b) of this chapter except that the board shall consider the comments provided to the board under the public hearing referred to in subsection (d)(3).

~~(g)~~ (h) The department shall submit a new water quality standard established in a rule adopted under subsection ~~(f)(1)~~ (f) to the United States Environmental Protection Agency for approval.

SECTION 12. IC 13-14-13-2, AS ADDED BY P.L.114-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The department may accept the electronic submission of information only if the submission meets the following:

~~(1) Standards established under IC 5-24 and corresponding rules.~~

~~(2)~~ (1) Requirements of cross-media electronic reporting under 40 CFR 3.

~~(3)~~ (2) Procedures established by the department to accept electronic information.

SECTION 13. IC 13-14-13-4, AS ADDED BY P.L.114-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The department may adopt procedures that are consistent with federal law for compliance with this chapter to allow an applicant to submit an electronic document bearing the valid electronic signature of a signatory if that signatory would otherwise be required to sign the paper document for which the electronic document substitutes.

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(b) The procedures adopted under subsection (a) may provide for electronic signature standards that are

- (1) ~~acceptable to the state board of accounts under IC 5-24;~~ and
- (2) consistent with 40 CFR 3.

SECTION 14. IC 13-14-13-6, AS ADDED BY P.L.114-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A person is subject to applicable state or federal civil, criminal, or other penalties and remedies for failure to comply with a reporting requirement if the person submits an electronic document that:

- (1) is in place of a paper document under this chapter; and
- (2) fails to comply with the following:
 - ~~(A) Standards established under IC 5-24 and supporting rules.~~
 - ~~(B)~~ (A) Requirements of cross-media electronic reporting under 40 CFR 3.
 - ~~(C)~~ (B) Procedures established by the department to accept electronic information.

SECTION 15. IC 13-15-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Except as provided in sections 2, 3, and 6 of this chapter, the commissioner shall approve or deny an application filed with the department after July 1, 1995, within the following number of days:

- (1) Three hundred sixty-five (365) days for an application concerning the following:
 - (A) A new hazardous waste or solid waste landfill.
 - (B) A new hazardous waste or solid waste incinerator.
 - (C) A major modification of a solid waste landfill.
 - (D) A major modification of a solid waste incinerator.
 - (E) A new hazardous waste treatment or storage facility.
 - (F) A new Part B permit issued under 40 CFR 270 et seq. for an existing hazardous waste treatment or storage facility.
 - (G) A Class 3 modification under 40 CFR 270.42 to a hazardous waste landfill.
 - (H) A new solid waste processing facility other than a transfer station.**
- (2) Two hundred seventy (270) days for an application concerning the following:
 - (A) A Class 3 modification under 40 CFR 270.42 of a hazardous waste treatment or storage facility.
 - (B) A major new National Pollutant Discharge Elimination System permit.
 - (C) A major modification to a solid waste processing**

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facility other than a transfer station.

(3) One hundred eighty (180) days for an application concerning the following:

(A) A new ~~solid waste processing or recycling facility.~~
transfer station or a major modification to a transfer station.

(B) A minor new National Pollutant Discharge Elimination System individual permit.

(C) A permit concerning the land application of wastewater.

(4) One hundred fifty (150) days for an application concerning a minor new National Pollutant Discharge Elimination System general permit.

(5) One hundred twenty (120) days for an application concerning a Class 2 modification under 40 CFR 270.42 to a hazardous waste facility.

(6) Ninety (90) days for an application concerning the following:

(A) A minor modification to a **permit for the following:**

(i) A solid waste landfill. ~~or~~

(ii) A **solid waste processing facility.**

(iii) An incinerator. ~~permit.~~

(B) A wastewater facility or water facility construction permit.

(7) The amount of time provided for in rules adopted by the air pollution control board for an application concerning the following:

(A) An air pollution construction permit that is subject to 326 IAC 2-2 and 326 IAC 2-3.

(B) An air pollution facility construction permit (other than as defined in 326 IAC 2-2).

(C) Registration of an air pollution facility.

(8) Sixty (60) days for an application concerning the following:

(A) A Class 1 modification under 40 CFR 270.42 requiring prior written approval, to a hazardous waste:

(i) landfill;

(ii) incinerator;

(iii) treatment facility; or

(iv) storage facility.

(B) Any other permit not specifically described in this section for which the application fee exceeds forty-nine dollars (\$49) and for which a time frame has not been established under section 3 of this chapter.

(b) When a person holding a valid permit concerning an activity of a continuing nature has made a timely and sufficient application for a

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renewal permit under the rules of one (1) of the boards, the commissioner shall approve or deny the application on or before the expiration date stated in the permit for which renewal is sought.

SECTION 16. IC 13-17-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The commissioner shall assist and cooperate with other groups interested in and affected by air pollution.

(b) The commissioner ~~may~~ **shall** do the following:

(1) Advise, consult, and cooperate with:

- (A) other state agencies;
- (B) towns, cities, and counties;
- (C) industries;
- (D) other states;
- (E) the federal government; and
- (F) affected groups;

in the prevention and control of new and existing air contamination sources within Indiana.

(2) Encourage and conduct studies, investigations, and research relating to the following:

- (A) Air pollution.
- (B) The causes, effects, prevention, control, and abatement of air pollution.

(3) Collect and disseminate information relating to the following:

- (A) Air pollution.
- (B) The prevention and control of air pollution.

(4) Encourage voluntary cooperation by persons, towns, cities, and counties or other affected groups in restoring and preserving a reasonable degree of purity of air within Indiana.

(5) Upon request, provide technical assistance to towns, cities, or counties requesting technical assistance for the furtherance of air pollution control.

~~(5)~~ (6) Encourage authorized air pollution agencies of towns, cities, and counties to handle air pollution problems within their respective jurisdictions to the greatest extent possible.

~~(6) Upon request, provide technical assistance to towns, cities, or counties requesting technical assistance for the furtherance of air pollution control.~~

(7) Enter into a contractual agreement with a local air pollution control agency established under IC 13-17-12-1 whenever the local air pollution control agency is willing to enter into the contract. The contract must require the department to do the following:

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(A) Advise, consult, and cooperate with the local air pollution control agency.

(B) Provide technical assistance to the local air pollution control agency.

(C) Authorize the local air pollution control agency to undertake air pollution control activities, including:

- (i) regional ambient air quality monitoring; and
- (ii) within the local air pollution control agency's jurisdiction, issuing operating permits and operating permit revisions, performing compliance inspections, responding to complaints and emergencies, and initiating enforcement actions on behalf the department.

(D) Authorize, as an alternative to actions described in clause (C), the local air pollution control agency to:

- (i) issue operating permits and operating permit revisions;
- (ii) perform compliance inspections;
- (iii) respond to complaints and emergencies; and
- (iv) initiate enforcement actions;

as authorized by local ordinances that are consistent with or more restrictive than the air pollution control laws.

(E) Provide, from money available to the department to carry out the air pollution control laws, fair monetary compensation to the local air pollution control agency for the air pollution control work performed on behalf of the department.

(F) Provide that the source of the monetary compensation provided to the local air pollution control agency may originate from:

- (i) United States Environmental Protection Agency federal grant funding for the purpose of air pollution control program support activities funded under Section 105 of the federal Clean Air Act (42 U.S.C. 7405), as further described in Section 66.001 of the Catalog of Federal Domestic Assistance;
- (ii) United States Environmental Protection Agency federal grant funding for the purpose of PM2.5 air monitoring activities funded under Section 103 of the federal Clean Air Act (42 U.S.C. 7403), as further described in Section 66.034 of the Catalog of Federal Domestic Assistance;
- (iii) annual operating fees established by 326 IAC 2 or its

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successor;

(iv) the environmental management special fund established by IC 13-14-12; and

(v) other revenue sources as approved by the governor and the budget agency.

(G) Provide that the monetary compensation provided to the local air pollution control agency must be at least sufficient to cover the staffing and operating costs the local air pollution control agency incurred for air pollution control work performed on behalf of the department.

(H) Provide that the monetary compensation provided to local air pollution control agencies shall be tied to the Consumer Price Index and shall be reviewed and adjusted within thirty (30) days after the release of the January CPI-U issued by the United States Bureau of Labor Statistics.

(I) Provide that if a local air pollution control agency applies for grant funding from the United States Environmental Protection Agency for the purposes of activities described in clause (F)(i) or (F)(ii), the commissioner shall approve and facilitate the grant funding agreement between the United States Environmental Protection Agency and the local air pollution control agency.

~~(7)~~ (8) Represent the state in all matters pertaining to plans, procedures, or negotiations for interstate compacts in relation to the control of air pollution.

~~(8)~~ (9) Accept and administer grants or other money or gifts for the purpose of carrying out any of the functions of air pollution control laws.

SECTION 17. IC 13-17-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) Air pollution control laws do not prevent towns, cities, or counties from:

(1) enforcing local air pollution ordinances consistent with air pollution control laws; or

(2) adopting or enforcing more restrictive ordinances to further the expressed purposes of air pollution control laws.

(b) A county, city, or town that adopts an ordinance described in subsection (a) must establish or designate an agency to act as an air pollution control agency to:

(1) enforce ordinances adopted under this section; and

(2) undertake air pollution control efforts on behalf of the

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department of environmental management under a contract entered into under IC 13-17-3-9.

The agency may be the agency established to administer a cooperative air pollution control program under section 3 of this chapter.

SECTION 18. IC 13-17-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. An air pollution control agency **that has entered into a contract described in IC 13-17-3-9(b)(7)** shall submit annual reports as requested by the department.

SECTION 19. IC 13-17-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A county, ~~having a consolidated city, or town (except an excluded city in a county having a consolidated city)~~ may subject to department approval, establish an air permit program that complies with:

- (1) the federal Clean Air Act (42 U.S.C. 7401 et seq.), as amended by the Clean Air Act Amendments of 1990 (P.L. 101-549);
- (2) regulations implementing Title V of the Clean Air Act Amendments of 1990 (40 CFR 70 et seq.); ~~and~~
- (3) rules adopted by the board; **and**
- (4) any more restrictive ordinances adopted by the county, city, or town to further the expressed purposes of the air pollution control laws.**

SECTION 20. IC 13-18-11-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. **(a)** ~~The department board~~ shall adopt ~~regulations~~ **rules** to implement certification programs for operators of water treatment plants or water distribution systems. The certification program for the operators shall be classified in accordance with the complexity, size, and source of the water for the treatment system and the complexity and size for the distribution system.

(b) The department may establish procedures for an apprenticeship program for the following:

- (1) Water treatment plant operators.**
- (2) Water distribution system operators.**

SECTION 21. IC 13-18-11-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The commissioner may suspend or revoke the certificate of an operator, following a hearing under IC 13-15-7-3 and IC 4-21.5, if any of the following conditions are found:

- (1) The operator has practiced fraud or deception **in any state or**

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1 **other jurisdiction at any time.**

2 (2) Reasonable care, judgment, or the application of the operator's
3 knowledge or ability was not used in the performance of the
4 operator's duties.

5 (3) The operator is incompetent or unable to properly perform the
6 operator's duties.

7 (b) A hearing and further proceedings shall be conducted in
8 accordance with IC 4-21.5-7.

9 SECTION 22. IC 13-18-12-1 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. The water pollution
11 control board and the department shall regulate persons who provide
12 ~~wastewater~~ **septage** management services.

13 SECTION 23. IC 13-18-12-2, AS AMENDED BY P.L.114-2008,
14 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2009]: Sec. 2. (a) A person may not transport, treat, store, or
16 dispose of ~~wastewater~~ **septage** in violation of this chapter.

17 (b) A person may not engage in:

18 (1) the cleaning of sewage disposal systems; or

19 (2) the transportation, treatment, storage, or disposal of
20 ~~wastewater~~ **septage**;

21 without a ~~wastewater~~ **septage** management permit unless the person is
22 exempted under section 7 of this chapter.

23 (c) A person may not operate a vehicle for the transportation of
24 ~~wastewater~~ **septage** without a ~~wastewater~~ **septage** management vehicle
25 identification number issued under this chapter. ~~unless the person is~~
26 ~~exempted under section 4(a)(2) of this chapter.~~

27 (d) A person may not dispose of ~~wastewater~~ **septage** by land
28 application without first obtaining approval of the land application site
29 under this chapter.

30 (e) The department may issue a ~~wastewater~~ **septage** management
31 permit that incorporates issuance of a ~~wastewater~~ **septage** management
32 vehicle identification number and approval of a land application site.

33 (f) The department may issue new and renewal permits,
34 identification numbers, and approvals under this chapter for a period
35 the department determines appropriate. However, the period may not
36 exceed three (3) years.

37 SECTION 24. IC 13-18-12-3 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. The board shall
39 initiate, in accordance with IC 13-15, a ~~wastewater~~ **septage**
40 management permit program for all persons who offer to perform or are
41 performing ~~wastewater~~ **septage** management services.

42 SECTION 25. IC 13-18-12-4, AS AMENDED BY P.L.114-2008,

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SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The board shall, in accordance with IC 13-14-8, adopt rules to establish the following:

(1) Standards for the following:

(A) The issuance of ~~wastewater~~ **septage** management permits under section 3 of this chapter.

(B) Cleaning of sewage disposal systems.

(C) Transportation, storage, and treatment of ~~wastewater~~, **septage**, and disposal of ~~wastewater~~, **septage**, including land application.

(2) Issuance of identification numbers for all vehicles used in ~~wastewater~~ **septage** management services. ~~However, the board may exempt by rule vehicles licensed on September 1, 1983, under the industrial waste haulers rule 320 IAC-5-10 as the rule existed on September 1, 1983.~~

(3) Procedures and standards for approval of sites for land application of ~~wastewater~~, **septage**.

(b) The board may designate a county or city health agency as the board's agent to approve land application sites in accordance with rules adopted under this section.

SECTION 26. IC 13-18-12-5, AS AMENDED BY P.L.114-2008, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Subject to subsections (b) and (c), the board may adopt a fee schedule for the issuance of:

(1) ~~wastewater~~ **septage** management permits;

(2) ~~wastewater~~ **septage** management vehicle identification numbers; and

(3) land application site approvals;

under this chapter.

(b) A permit fee may not exceed one hundred dollars (\$100) per year.

(c) A vehicle identification number or land application approval fee may not exceed thirty dollars (\$30) per year per vehicle or site.

(d) Whenever the board designates a county or city health agency as the board's agent to approve land application sites under this chapter, the county or city health agency shall collect and retain the land application approval fee.

SECTION 27. IC 13-18-12-7, AS AMENDED BY P.L.114-2008, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. This chapter does not require a person to obtain a permit or vehicle identification number under this chapter if the person is:

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(1) engaged in:

(A) servicing or maintaining publicly owned wastewater treatment facilities; or

(B) transportation of wastewater from a publicly owned wastewater treatment facility;

as long as the wastewater at that facility has been fully treated and is stabilized;

(2) transporting ~~wastewater~~ **septage** from the point of its removal to another location on the same site or tract owned by the same person, although disposal of the ~~wastewater~~ **septage** must be done in accordance with this chapter; or

(3) a homeowner who cleans and services the sewage disposal system serving only the homeowner's residence, although transportation and disposal of ~~wastewater~~ **septage** must be done in compliance with this chapter.

SECTION 28. IC 13-20-17.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. After July 1, 2003, a person may sell or provide a mercury commodity to another person in this state (other than for collection for recycling) only if:

(1) the person selling or providing the mercury commodity provides a material safety data sheet with the mercury commodity; and

(2) the person selling or providing the mercury commodity requires the purchaser or recipient to sign a statement with respect to the mercury in the mercury commodity that the purchaser or recipient:

(A) will use the mercury only:

(i) for medical purposes;

(ii) in dental amalgam dispose-caps;

(iii) for training;

(iv) for research; or

(v) for manufacturing purposes;

(B) understands that mercury is toxic;

(C) will store and use the mercury appropriately so that no individual is exposed to the mercury under normal conditions of use; and

(D) will not intentionally:

(i) place or cause to be placed; or

(ii) allow anyone under the control of the purchaser or recipient to place or cause to be placed;

the mercury commodity in solid waste for disposal, ~~or in a wastewater~~ **sewage** disposal system, **or in a wastewater**

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treatment plant.

SECTION 29. IC 13-20-21-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. **(a) Except as provided in subsections (b) and (c), for solid waste permits, the application fees are as follows:**

New Permit or Major Modification

	Fee
Sanitary Landfill	\$31,300
Construction\Demolition Site	\$20,000
Restricted Waste Site	
Type I	\$31,300
Type II	\$31,300
Type III	\$20,000
Processing Facility	
Transfer Station	\$12,150
Other	\$12,150
Incinerator	\$28,650
Waste Tire Storage	
Registration	\$ 500
Waste Tire Processing	\$ 200
Waste Tire	
Transportation	\$ 25
Permit Renewal	
Sanitary Landfill	\$ 15,350
Construction\Demolition Site	\$ 7,150
Restricted Waste Site	
Type I	\$ 15,350
Type II	\$ 15,350
Type III	\$ 7,150
Processing Facility	
Transfer Station	\$ 2,200
Other	\$ 2,200
Incinerator	\$ 5,900
Waste Tire Processing	\$ 200
Minor Modification	
Minor Modification	\$2,500

(b) The fee for:

(1) a new permit; or

(2) a permit for a major modification;

for a solid waste landfill not covered by subsection (a) is thirty-one thousand three hundred dollars (\$31,300).

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(c) The fee for a permit renewal for a solid waste landfill not covered by subsection (a) is fifteen thousand three hundred fifty dollars (\$15,350).

SECTION 30. IC 13-20-21-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. For solid waste, the annual operation fees are as follows:

	Fee
Sanitary Solid Waste Landfill	
Not Otherwise Covered in This Section	
> 500 TPD	\$35,000
250-499 TPD	\$15,000
100-249 TPD	\$ 7,000
<100 TPD	\$ 2,000
Construction\	
Demolition Site	\$ 1,500
Restricted Waste Site	
Type I	\$35,000
Type II	\$25,000
Type III	\$10,000
Processing Facility	
Transfer Station	\$ 2,000
Other	\$ 2,000
Incinerator	
>500 TPD	\$35,000
250-499 TPD	\$15,000
100-249 TPD	\$ 7,000
<100 TPD	\$ 2,000
Infectious Waste	
Incinerator (>7 TPD)	\$ 5,000
Waste Tire Storage	
Registration	\$ 500
Waste Tire Transportation	
Registration	\$ 25
Groundwater	
Compliance	
Sampling	
(per well)	\$ 250

SECTION 31. IC 13-20-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. Solid waste disposal fees must be paid by all solid waste disposal facilities, including ~~sanitary landfills~~, **solid waste landfills**, incinerators, and construction\demolition disposal facilities. Solid waste disposal fees:

ES 461—LS 6660/DI 52+



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(1) for the period of January 1 through June 30 of each year are due on August 1 of that year; and

(2) for the period of July 1 through December 31 of each year are due on February 1 of the following year.

SECTION 32. IC 13-23-8-3, AS AMENDED BY P.L.221-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. For the purposes of section 2 of this chapter, the following amounts shall be used:

(1) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is not in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements; and

(B) is in compliance on a date required under the requirements described under section 4 of this chapter at the time a release was discovered;

the amount is thirty-five thousand dollars (\$35,000).

(2) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is not a double walled underground petroleum storage tank; and

(C) has piping that does not have secondary containment;

the amount is ~~twenty-five~~ **thirty** thousand dollars ~~(\$25,000).~~ **(\$30,000).**

(3) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is not a double walled underground petroleum storage tank; and

(C) has piping that has secondary containment;

the amount is twenty-five thousand dollars (\$25,000).

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(4) If the underground petroleum storage tank that is involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is a double walled underground petroleum storage tank; and

(C) has piping that does not have secondary containment; the amount is twenty-five thousand dollars (\$25,000).

(5) If the underground petroleum storage tank that was involved in the occurrence for which claims are made:

(A) is in compliance with rules adopted by the board concerning technical and safety requirements relating to the physical characteristics of underground petroleum storage tanks before the date the tank is required to be in compliance with the requirements;

(B) is a double walled underground petroleum storage tank; and

(C) has piping that has secondary containment; the amount is twenty thousand dollars (\$20,000).

SECTION 33. IC 14-33-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) If the board issues revenue bonds for the collection, treatment, and disposal of sewage and liquid waste, the board may do the following:

(1) **Subject to sections 21.1 and 21.2 of this chapter**, establish just and equitable rates and charges and use the same basis for the rates as provided in IC 36-9-23-25 through IC 36-9-23-29.

(2) Collect and enforce the rates, beginning with the commencement of construction as provided in IC 36-9-23.

(3) Establish rules and regulations.

(4) Require connection to the board's sewer system of any property producing sewage or similar waste and require discontinuance of use of privies, cesspools, septic tanks, and similar structures. The board may enforce this requirement by civil action in circuit or superior court as provided in IC 36-9-23-30.

(5) Provide for and collect a connection charge to the board's sewer system as provided in IC 36-9-23-25 through IC 36-9-23-29.

(6) Contract for treatment of the board's sewage and pay a fair and

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reasonable connection fee or rate for treatment, or a combination of both, as provided in IC 36-9-23-16.

(7) Secure the bonds by a trust indenture as provided in IC 36-9-23-22.

(8) Create a sinking fund for the payment of principal and interest and accumulate reasonable reserves as provided in IC 36-9-23-21.

(9) Issue temporary revenue bonds to be exchanged for definite revenue bonds as provided in IC 36-9-23-17 through IC 36-9-23-20.

(10) Issue additional revenue bonds as part of the same issue if the issue does not meet the full cost of the project for which the bonds were issued as provided in IC 36-9-23-17 through IC 36-9-23-20.

(11) Issue additional revenue bonds for improvements, enlargements, and extensions as provided in IC 36-9-23-18.

(12) Covenant with the holders of the revenue bonds for the following:

(A) Protection of the holders concerning the use of money derived from the sale of bonds.

(B) The collection of necessary rates and charges and segregation of the rates and charges for payment of principal and interest.

(C) Remedy if a default occurs.

The covenants may extend to both repayment from revenues and other money available to the district by other statute as provided in IC 36-9-23.

(b) In the same manner as provided by IC 36-9-23, the rates or charges made, assessed, or established by the district are a lien on a lot, parcel of land, or building that is connected with or uses the works by or through any part of the sewage system of the district. The liens:

(1) attach;

(2) are recorded;

(3) are subject to the same penalties, interest, and reasonable attorney's fees on recovery; and

(4) shall be collected and enforced;

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-32.

SECTION 34. IC 14-33-5-21.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.1. (a) This section applies to a campground that:**

(1) is connected with the sewage works of a district established

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for the purpose described in IC 14-33-1-1(a)(5); or

(2) uses or is served by the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5).

(b) Beginning September 1, 2009, if a campground is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the district's sewers. If a campground elects to be billed by use of a meter:

(1) the rate charged by the district's board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and

(2) the amount charged by the board for the campground's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the greater of:

(A) the actual amount that would be charged for the sewage discharged during the month by the campground as measured by the meter; or

(B) the lowest monthly charge paid by the campground for sewage service during the previous period beginning June 1 and ending August 31.

(c) If a campground does not install a meter under subsection (b) and is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, for a calendar year beginning after December 31, 2009, each campsite at the campground may not equal more than one-third (1/3) of one (1) resident equivalent unit. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit.

(d) The board may impose additional charges on a campground under subsections (b) and (c) if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

(1) the installation of:

(A) oversized pipe; or

(B) any other unique equipment;

necessary to provide sewage service for the campground; and
(2) concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards.

SECTION 35. IC 14-33-5-21.2 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2009]: **Sec. 21.2. (a)** As used in this section,
"commission" refers to the Indiana utility regulatory commission
created by IC 8-1-1-2.

(b) This section applies to an owner or operator of a
campground described in section 21.1(b) or 21.1(c) of this chapter
who disputes:

(1) that the campground is being billed at rates charged to
residential customers for equivalent usage as required by
section 21.1(b)(1) of this chapter;

(2) the number of resident equivalent units determined for the
campground under section 21.1(c) of this chapter; or

(3) that any additional charges imposed on the campground
under section 21.1(d) of this chapter are reasonable or
nondiscriminatory.

(c) If an owner or operator:

(1) makes a good faith attempt to resolve a disputed matter
described in subsection (b)(1) through (b)(3) through:

(A) any grievance or complaint procedure prescribed by
the board; or

(B) other negotiations with the board; and

(2) is dissatisfied with the board's proposed disposition of the
matter;

the owner or operator may file with the commission a written
request for review of the disputed matter and the board's proposed
disposition of the matter to be conducted by the commission's
appeals division established under IC 8-1-2-34.5(b). The owner or
operator must file a request under this section with the commission
and the board not later than seven (7) days after receiving notice
of the board's proposed disposition of the matter.

(d) The commission's appeals division shall provide an informal
review of the disputed matter. The review must include a prompt
and thorough investigation of the dispute. Upon request by either
party, or on the division's own motion, the division shall require
the parties to attend a conference on the matter at a date, time, and
place determined by the division.

(e) In any case in which the basic monthly charge for a
campground's sewage service is in dispute, the owner or operator
shall pay, on any disputed bill issued while a review under this
section is pending, the basic monthly charge billed during the year
immediately preceding the year in which the first disputed bill is
issued. If the basic monthly charge paid while the review is pending

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1 exceeds any monthly charge determined by the commission in a
 2 decision issued under subsection (f), the board shall refund or
 3 credit the excess amount paid to the owner or operator. If the basic
 4 monthly charge paid while the review is pending is less than any
 5 monthly charge determined by the appeals division or commission
 6 in a decision issued under subsection (f), the owner or operator
 7 shall pay the board the difference owed.

8 (f) After conducting the review required under subsection (d),
 9 the appeals division shall issue a written decision resolving the
 10 disputed matter. The division shall send a copy of the decision to:

- 11 (1) the owner or operator of the campground; and
- 12 (2) the board;

13 by United States mail. Not later than seven (7) days after receiving
 14 the written decision of the appeals division, either party may make
 15 a written request for the dispute to be formally docketed as a
 16 proceeding before the commission. Subject to the right of either
 17 party to an appeal under IC 8-1-3, the decision of the commission
 18 is final.

19 (g) The commission shall maintain a record of all requests for
 20 a review made under this section. The record must include:

- 21 (1) a copy of the appeals division's and commission's decision
- 22 under subsection (f) for each dispute filed; and
- 23 (2) any other documents filed with the appeals division or
- 24 commission under this section.

25 The record must be made available for public inspection and
 26 copying in the office of the commission during regular business
 27 hours under IC 5-14-3.

28 (h) The commission may adopt rules under IC 4-22-2 to
 29 implement this section.

30 SECTION 36. IC 32-21-5-7 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. The Indiana real
 32 estate commission established by IC 25-34.1-2-1 shall adopt a specific
 33 disclosure form that contains the following:

- 34 (1) Disclosure by the owner of the known condition of the
- 35 following:
 - 36 (A) The foundation.
 - 37 (B) The mechanical systems.
 - 38 (C) The roof.
 - 39 (D) The structure.
 - 40 (E) The water and sewer systems.
 - 41 (F) Additions that may require improvements to the sewage
 - 42 disposal system.

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(G) Other areas that the Indiana real estate commission determines are appropriate.

(2) Disclosure by the owner of known contamination by methamphetamine of property that has not been certified as decontaminated by an inspector approved under IC 13-14-1-15.

~~(2)~~ (3) A notice to the prospective buyer that contains substantially the following language:

"The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property."

~~(3)~~ (4) A notice to the prospective buyer that contains substantially the following language:

"The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and owner."

~~(4)~~ (5) A disclosure by the owner that an airport is located within a geographical distance from the property as determined by the Indiana real estate commission. The commission may consider the differences between an airport serving commercial airlines and an airport that does not serve commercial airlines in determining the distance to be disclosed.

SECTION 37. IC 32-21-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "psychologically **or environmentally** affected property" includes real estate or a dwelling that is for sale, rent, or lease and to which one (1) or more of the following facts or a reasonable suspicion of facts apply:

(1) That an occupant of the property was afflicted with or died from a disease related to the human immunodeficiency virus (HIV).

(2) That an individual died on the property.

(3) That the property was the site of:

(A) a felony under IC 35;

(B) criminal gang (as defined in IC 35-45-9-1) activity;

(C) the discharge of a firearm involving a law enforcement officer while engaged in the officer's official duties; or

(D) the illegal manufacture or distribution of a controlled substance.

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SECTION 38. IC 32-21-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. **(a) Except as provided in subsection (b),** an owner or agent is not required to disclose to a transferee any knowledge of a psychologically or environmentally affected property in a real estate transaction.

(b) Subsection (a) does not apply if the transferred property has been contaminated by methamphetamine and has not been certified as decontaminated by an inspector approved under IC 13-14-1-15.

SECTION 39. IC 32-21-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. An owner or agent is not liable for the refusal to disclose to a transferee:

(1) that a dwelling or real estate is a psychologically or environmentally affected property; or

(2) details concerning the psychologically or environmentally affected nature of the dwelling or real estate.

However, an owner or agent may not intentionally misrepresent a fact concerning a psychologically or environmentally affected property in response to a direct inquiry from a transferee.

SECTION 40. IC 36-8-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. A municipality may exercise powers granted by sections 4, 5, ~~and 6~~, and 8 of this chapter in areas within four (4) miles outside its corporate boundaries.

SECTION 41. IC 5-24 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 42. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 13-11-2-256; IC 13-11-2-257.

SECTION 43. [EFFECTIVE UPON PASSAGE] **(a) The environmental quality service council established by IC 13-13-7-1 shall study and make findings and recommendations concerning the following:**

(1) With respect to the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1:

(A) whether administration of the fund should be removed from the department of environmental management;

(B) whether to broaden access of the department of environmental management to the fund; and

(C) whether the annual limits on reimbursement of claims against the fund should be increased.

(2) Whether to abolish the underground petroleum storage tank trust fund established by IC 13-23-6-1.

(3) Whether to expand the definition of "owner" for purposes

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1 of IC 13-11-2-150 to include property owners who neither
2 own nor operate underground storage tanks.

3 (4) Options for underground storage tank operators to obtain
4 training required by Section 9010 of the federal Solid Waste
5 Disposal Act (42 U.S.C. 6991i).

6 (5) Whether the northwest Indiana advisory board established
7 under IC 13-13-6 should be abolished.

8 (6) Whether to establish a state registry of environmental
9 restrictive covenants and ordinances.

10 (7) The progress of rulemaking concerning antidegradation of
11 surface waters.

12 (8) The efficacy of changes in enforcement programs at the
13 department of environmental management.

14 (9) The ability of local governments to adopt environmental
15 protection and public health ordinances.

16 (10) The risk of infectious disease transmission from
17 pathogens in livestock manure at concentrated animal feeding
18 operations and confined feeding operations.

19 (11) Any other issues the council considers appropriate.

20 (b) The environmental quality service council shall include its
21 findings and recommendations developed under subsection (a) in
22 the council's 2009 final report to the legislative council.

23 (c) This SECTION expires January 1, 2010.

24 SECTION 44. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 461, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- Page 2, delete lines 11 through 42.
- Delete pages 3 through 5.
- Page 6, delete lines 1 through 21.
- Page 6, line 41, delete "wastewater" and insert "septage".
- Page 18, delete lines 37 through 42.
- Delete pages 19 through 20.
- Page 21, delete lines 1 through 6.
- Page 22, delete lines 25 through 42.
- Delete pages 23 through 27.
- Page 28, delete lines 1 through 38.
- Delete page 30.
- Page 31, delete lines 1 through 22.
- Page 31, line 26, delete "IC 13-11-2-163;"
- Page 31, line 26, delete "IC 13-11-2-257;" and insert "IC 13-11-2-257."
- Page 31, delete line 27.
- Page 31, between lines 27 and 28, begin a new paragraph and insert:
"SECTION 31. [EFFECTIVE UPON PASSAGE] (a) The environmental quality service council established by IC 13-13-7-1 shall study and make findings and recommendations concerning the following:
 - (1) With respect to the underground petroleum storage tank excess liability trust fund established by IC 13-23-7-1:**
 - (A) whether administration of the fund should be removed from the department of environmental management;**
 - (B) whether to broaden access of the department of environmental management to the fund; and**
 - (C) whether the annual limits on reimbursement of claims against the fund should be increased.**
 - (2) Whether to abolish the underground petroleum storage tank trust fund established by IC 13-23-6-1.**
 - (3) Whether to expand the definition of "owner" for purposes of IC 13-11-2-150 to include property owners who neither own nor operate underground storage tanks.**
 - (4) Options for underground storage tank operators to obtain training required by Section 9010 of the federal Solid Waste**

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Disposal Act (42 U.S.C. 6991i).

(5) Whether the northwest Indiana advisory board established under IC 13-13-6 should be abolished.

(6) Any other issues the council considers appropriate.

(b) The environmental quality service council shall include its findings and recommendations developed under subsection (a) in the council's 2009 final report to the legislative council.

(c) This SECTION expires January 1, 2010."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 461 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 10, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 461 be amended to read as follows:

Page 16, line 17, delete "a" and insert "**methamphetamine**".

Page 16, line 18, delete "controlled substance".

Page 17, line 3, delete "is" and insert "**has been contaminated by methamphetamine and has not been certified as decontaminated by an inspector approved under IC 13-14-1-15.**".

Page 17, delete lines 4 through 5.

(Reference is to SB 461 as printed February 4, 2009.)

GARD

COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred Senate Bill 461, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 9, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 16. IC 13-17-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The

ES 461—LS 6660/DI 52+



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commissioner shall assist and cooperate with other groups interested in and affected by air pollution.

(b) The commissioner ~~may~~ **shall** do the following:

(1) Advise, consult, and cooperate with:

- (A) other state agencies;
- (B) towns, cities, and counties;
- (C) industries;
- (D) other states;
- (E) the federal government; and
- (F) affected groups;

in the prevention and control of new and existing air contamination sources within Indiana.

(2) Encourage and conduct studies, investigations, and research relating to the following:

- (A) Air pollution.
- (B) The causes, effects, prevention, control, and abatement of air pollution.

(3) Collect and disseminate information relating to the following:

- (A) Air pollution.
- (B) The prevention and control of air pollution.

(4) Encourage voluntary cooperation by persons, towns, cities, and counties or other affected groups in restoring and preserving a reasonable degree of purity of air within Indiana.

(5) Upon request, provide technical assistance to towns, cities, or counties requesting technical assistance for the furtherance of air pollution control.

~~(5)~~ (6) Encourage authorized air pollution agencies of towns, cities, and counties to handle air pollution problems within their respective jurisdictions to the greatest extent possible.

~~(6) Upon request, provide technical assistance to towns, cities, or counties requesting technical assistance for the furtherance of air pollution control.~~

(7) Enter into a contractual agreement with a local air pollution control agency established under IC 13-17-12-1 whenever the local air pollution control agency is willing to enter into the contract. The contract must require the department to do the following:

- (A) Advise, consult, and cooperate with the local air pollution control agency.**
- (B) Provide technical assistance to the local air pollution control agency.**
- (C) Authorize the local air pollution control agency to**

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undertake air pollution control activities, including:

- (i) regional ambient air quality monitoring; and
- (ii) within the local air pollution control agency's jurisdiction, issuing operating permits and operating permit revisions, performing compliance inspections, responding to complaints and emergencies, and initiating enforcement actions on behalf the department.

(D) Authorize, as an alternative to actions described in clause (C), the local air pollution control agency to:

- (i) issue operating permits and operating permit revisions;
- (ii) perform compliance inspections;
- (iii) respond to complaints and emergencies; and
- (iv) initiate enforcement actions;

as authorized by local ordinances that are consistent with or more restrictive than the air pollution control laws.

(E) Provide, from money available to the department to carry out the air pollution control laws, fair monetary compensation to the local air pollution control agency for the air pollution control work performed on behalf of the department.

(F) Provide that the source of the monetary compensation provided to the local air pollution control agency may originate from:

- (i) United States Environmental Protection Agency federal grant funding for the purpose of air pollution control program support activities funded under Section 105 of the federal Clean Air Act (42 U.S.C. 7405), as further described in Section 66.001 of the Catalog of Federal Domestic Assistance;
- (ii) United States Environmental Protection Agency federal grant funding for the purpose of PM2.5 air monitoring activities funded under Section 103 of the federal Clean Air Act (42 U.S.C. 7403), as further described in Section 66.034 of the Catalog of Federal Domestic Assistance;
- (iii) annual operating fees established by 326 IAC 2 or its successor;
- (iv) the environmental management special fund established by IC 13-14-12; and
- (v) other revenue sources as approved by the governor and the budget agency.

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(G) Provide that the monetary compensation provided to the local air pollution control agency must be at least sufficient to cover the staffing and operating costs the local air pollution control agency incurred for air pollution control work performed on behalf of the department.

(H) Provide that the monetary compensation provided to local air pollution control agencies shall be tied to the Consumer Price Index and shall be reviewed and adjusted within thirty (30) days after the release of the January CPI-U issued by the United States Bureau of Labor Statistics.

(I) Provide that if a local air pollution control agency applies for grant funding from the United States Environmental Protection Agency for the purposes of activities described in clause (F)(i) or (F)(ii), the commissioner shall approve and facilitate the grant funding agreement between the United States Environmental Protection Agency and the local air pollution control agency.

~~(7)~~ **(8)** Represent the state in all matters pertaining to plans, procedures, or negotiations for interstate compacts in relation to the control of air pollution.

~~(8)~~ **(9)** Accept and administer grants or other money or gifts for the purpose of carrying out any of the functions of air pollution control laws.

SECTION 17. IC 13-17-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **(a)** Air pollution control laws do not prevent towns, cities, or counties from:

(1) enforcing local air pollution ordinances consistent with air pollution control laws; or

(2) adopting or enforcing more restrictive ordinances to further the expressed purposes of air pollution control laws.

(b) A county, city, or town that adopts an ordinance described in subsection (a) must establish or designate an agency to act as an air pollution control agency to:

(1) enforce ordinances adopted under this section; and

(2) undertake air pollution control efforts on behalf of the department of environmental management under a contract entered into under IC 13-17-3-9.

The agency may be the agency established to administer a cooperative air pollution control program under section 3 of this chapter.

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SECTION 18. IC 13-17-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. An air pollution control agency **that has entered into a contract described in IC 13-17-3-9(b)(7)** shall submit annual reports as requested by the department.

SECTION 19. IC 13-17-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A county, ~~having a consolidated city, or town (except an excluded city in a county having a consolidated city)~~ may ~~subject to department approval,~~ establish an air permit program that complies with:

- (1) the federal Clean Air Act (42 U.S.C. 7401 et seq.), as amended by the Clean Air Act Amendments of 1990 (P.L. 101-549);
- (2) regulations implementing Title V of the Clean Air Act Amendments of 1990 (40 CFR 70 et seq.); ~~and~~
- (3) rules adopted by the board; **and**
- (4) any more restrictive ordinances adopted by the county, city, or town to further the expressed purposes of the air pollution control laws."**

Page 16, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 33. IC 14-33-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. (a) If the board issues revenue bonds for the collection, treatment, and disposal of sewage and liquid waste, the board may do the following:

- (1) **Subject to sections 21.1 and 21.2 of this chapter,** establish just and equitable rates and charges and use the same basis for the rates as provided in IC 36-9-23-25 through IC 36-9-23-29.
- (2) Collect and enforce the rates, beginning with the commencement of construction as provided in IC 36-9-23.
- (3) Establish rules and regulations.
- (4) Require connection to the board's sewer system of any property producing sewage or similar waste and require discontinuance of use of privies, cesspools, septic tanks, and similar structures. The board may enforce this requirement by civil action in circuit or superior court as provided in IC 36-9-23-30.
- (5) Provide for and collect a connection charge to the board's sewer system as provided in IC 36-9-23-25 through IC 36-9-23-29.
- (6) Contract for treatment of the board's sewage and pay a fair and reasonable connection fee or rate for treatment, or a combination of both, as provided in IC 36-9-23-16.

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(7) Secure the bonds by a trust indenture as provided in IC 36-9-23-22.

(8) Create a sinking fund for the payment of principal and interest and accumulate reasonable reserves as provided in IC 36-9-23-21.

(9) Issue temporary revenue bonds to be exchanged for definite revenue bonds as provided in IC 36-9-23-17 through IC 36-9-23-20.

(10) Issue additional revenue bonds as part of the same issue if the issue does not meet the full cost of the project for which the bonds were issued as provided in IC 36-9-23-17 through IC 36-9-23-20.

(11) Issue additional revenue bonds for improvements, enlargements, and extensions as provided in IC 36-9-23-18.

(12) Covenant with the holders of the revenue bonds for the following:

(A) Protection of the holders concerning the use of money derived from the sale of bonds.

(B) The collection of necessary rates and charges and segregation of the rates and charges for payment of principal and interest.

(C) Remedy if a default occurs.

The covenants may extend to both repayment from revenues and other money available to the district by other statute as provided in IC 36-9-23.

(b) In the same manner as provided by IC 36-9-23, the rates or charges made, assessed, or established by the district are a lien on a lot, parcel of land, or building that is connected with or uses the works by or through any part of the sewage system of the district. The liens:

(1) attach;

(2) are recorded;

(3) are subject to the same penalties, interest, and reasonable attorney's fees on recovery; and

(4) shall be collected and enforced;

in substantially the same manner as provided in IC 36-9-23-31 through IC 36-9-23-32.

SECTION 34. IC 14-33-5-21.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.1. (a) This section applies to a campground that:**

(1) is connected with the sewage works of a district established for the purpose described in IC 14-33-1-1(a)(5); or

(2) uses or is served by the sewage works of a district

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established for the purpose described in IC 14-33-1-1(a)(5).

(b) Beginning September 1, 2009, if a campground is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, the campground may instead elect to be billed for the sewage service under this subsection by installing, at the campground's expense, a meter to measure the actual amount of sewage discharged by the campground into the district's sewers. If a campground elects to be billed by use of a meter:

(1) the rate charged by the district's board for the metered sewage service may not exceed the rate charged to residential customers for equivalent usage; and

(2) the amount charged by the board for the campground's monthly sewage service for the period beginning September 1 and ending May 31 must be equal to the greater of:

(A) the actual amount that would be charged for the sewage discharged during the month by the campground as measured by the meter; or

(B) the lowest monthly charge paid by the campground for sewage service during the previous period beginning June 1 and ending August 31.

(c) If a campground does not install a meter under subsection (b) and is billed for sewage service at a flat rate under section 21(a)(1) of this chapter, for a calendar year beginning after December 31, 2009, each campsite at the campground may not equal more than one-third ($1/3$) of one (1) resident equivalent unit. The basic monthly charge for the campground's sewage service must be equal to the number of the campground's resident equivalent units multiplied by the rate charged by the board for a resident unit.

(d) The board may impose additional charges on a campground under subsections (b) and (c) if the board incurs additional costs that are caused by any unique factors that apply to providing sewage service for the campground, including, but not limited to:

(1) the installation of:

(A) oversized pipe; or

(B) any other unique equipment;

necessary to provide sewage service for the campground; and

(2) concentrations of biochemical oxygen demand (BOD) that exceed federal pollutant standards.

SECTION 35. IC 14-33-5-21.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21.2. (a) As used in this section,

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"commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) This section applies to an owner or operator of a campground described in section 21.1(b) or 21.1(c) of this chapter who disputes:

- (1) that the campground is being billed at rates charged to residential customers for equivalent usage as required by section 21.1(b)(1) of this chapter;
- (2) the number of resident equivalent units determined for the campground under section 21.1(c) of this chapter; or
- (3) that any additional charges imposed on the campground under section 21.1(d) of this chapter are reasonable or nondiscriminatory.

(c) If an owner or operator:

- (1) makes a good faith attempt to resolve a disputed matter described in subsection (b)(1) through (b)(3) through:
 - (A) any grievance or complaint procedure prescribed by the board; or
 - (B) other negotiations with the board; and
- (2) is dissatisfied with the board's proposed disposition of the matter;

the owner or operator may file with the commission a written request for review of the disputed matter and the board's proposed disposition of the matter to be conducted by the commission's appeals division established under IC 8-1-2-34.5(b). The owner or operator must file a request under this section with the commission and the board not later than seven (7) days after receiving notice of the board's proposed disposition of the matter.

(d) The commission's appeals division shall provide an informal review of the disputed matter. The review must include a prompt and thorough investigation of the dispute. Upon request by either party, or on the division's own motion, the division shall require the parties to attend a conference on the matter at a date, time, and place determined by the division.

(e) In any case in which the basic monthly charge for a campground's sewage service is in dispute, the owner or operator shall pay, on any disputed bill issued while a review under this section is pending, the basic monthly charge billed during the year immediately preceding the year in which the first disputed bill is issued. If the basic monthly charge paid while the review is pending exceeds any monthly charge determined by the commission in a decision issued under subsection (f), the board shall refund or

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credit the excess amount paid to the owner or operator. If the basic monthly charge paid while the review is pending is less than any monthly charge determined by the appeals division or commission in a decision issued under subsection (f), the owner or operator shall pay the board the difference owed.

(f) After conducting the review required under subsection (d), the appeals division shall issue a written decision resolving the disputed matter. The division shall send a copy of the decision to:

- (1) the owner or operator of the campground; and
- (2) the board;

by United States mail. Not later than seven (7) days after receiving the written decision of the appeals division, either party may make a written request for the dispute to be formally docketed as a proceeding before the commission. Subject to the right of either party to an appeal under IC 8-1-3, the decision of the commission is final.

(g) The commission shall maintain a record of all requests for a review made under this section. The record must include:

- (1) a copy of the appeals division's and commission's decision under subsection (f) for each dispute filed; and
- (2) any other documents filed with the appeals division or commission under this section.

The record must be made available for public inspection and copying in the office of the commission during regular business hours under IC 5-14-3.

(h) The commission may adopt rules under IC 4-22-2 to implement this section."

Page 16, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 37. IC 32-21-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "psychologically or environmentally affected property" includes real estate or a dwelling that is for sale, rent, or lease and to which one (1) or more of the following facts or a reasonable suspicion of facts apply:

- (1) That an occupant of the property was afflicted with or died from a disease related to the human immunodeficiency virus (HIV).
- (2) That an individual died on the property.
- (3) That the property was the site of:
 - (A) a felony under IC 35;
 - (B) criminal gang (as defined in IC 35-45-9-1) activity;
 - (C) the discharge of a firearm involving a law enforcement

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officer while engaged in the officer's official duties; or
 (D) the illegal manufacture or distribution of a controlled substance."

Page 17, line 1, after "psychologically" insert "**or environmentally**".

Page 17, between lines 6 and 7, begin a new paragraph and insert:
 "SECTION 39. IC 32-21-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. An owner or agent is not liable for the refusal to disclose to a transferee:

- (1) that a dwelling or real estate is a psychologically **or environmentally** affected property; or
- (2) details concerning the psychologically **or environmentally** affected nature of the dwelling or real estate.

However, an owner or agent may not intentionally misrepresent a fact concerning a psychologically **or environmentally** affected property in response to a direct inquiry from a transferee.

SECTION 40. IC 36-8-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. A municipality may exercise powers granted by sections 4, 5, ~~and 6, and 8~~ of this chapter in areas within four (4) miles outside its corporate boundaries."

Page 17, between lines 32 and 33, begin a new line block indented and insert:

- "(6) Whether to establish a state registry of environmental restrictive covenants and ordinances.**
- (7) The progress of rulemaking concerning antidegradation of surface waters.**
- (8) The efficacy of changes in enforcement programs at the department of environmental management.**
- (9) The ability of local governments to adopt environmental protection and public health ordinances.**
- (10) The risk of infectious disease transmission from pathogens in livestock manure at concentrated animal feeding operations and confined feeding operations."**

Page 17, line 33, delete "(6)" and insert "(11)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 461 as reprinted February 6, 2009.)

DVORAK, Chair

Committee Vote: yeas 12, nays 0.

ES 461—LS 6660/DI 52+



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